

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Andreas Fellingner

Serial No. : 09/308,408

Confirmation No. : 6097

REMARKS

In the Office Action mailed April 16, 2002, the Examiner has rejected claims 16-22. In order to better support inventiveness and distinguish applicant's invention from cited prior art, applicant herein amends claims 16, 17, 18 and 22 to include two features of the storage device. The feature that receiving depressions form the chambers in the flexible base layer appears in claim 17. That the receiving depressions have the shape of a medical swab is shown in the figures. The feature that the envelope is sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed is disclosed on page 2, first paragraph, of the specification as originally filed. Hence, the amended set of patent claims as provided herewith does not enter new matter to the application.

The Examiner has rejected claims 16, 18 and 22 under 35 U.S.C. 102(b) as being anticipated by Applezweig, U.S. Patent No. 3,409,721. Applicant respectfully traverses this rejection. The oral storage system according to Applezweig comprises two layers made of the same transparent film or foil, namely polyethylene. Although flexible, the polyethylene layers are too rigid to be torn by finger pressure on the layer. In case of the inventive storage device, it is the cover layer made of sterilization craft paper which will be torn. The integrity of the base layer will not be affected. The Examiner's opinion in item 2 of the this Office Action, that the chamber opens by exerting finger pressure on one of the flexible layers of the dosage system according to Applezweig is contested. While it might be possible to destroy one of the flexible layers by punching with the tip of a pin, needle, knife or scissors, merely exerting finger pressure on one of the polyethylene layers will not give access to the content of the pocket. The existence of means in the peripheral border of each

individual compartment in the dosage system according to Applezweig to facilitate tearing open the compartment supports applicant's argument. These means are not provided with reference numbers, but are clearly shown in Figure 1.

In addition, the two layers of Applezweig are completely sealed at the peripheral borders of the compartments formed after the two film are superimposed. In contrast to the storage device of the present invention, neither of the two layers of the storage system according to Applezweig is formed to provide receiving depressions. Thus, applicant respectfully requests that this rejection be withdrawn.

Also, the Examiner has rejected claims 16, 18 and 22 under 35 U.S.C. 102(b) as being anticipated by Roulin et al., U.S. Patent No. 5,695,063. Applicant respectfully traverses this rejection. The present invention as defined by the amended claims differs from the blister pack according to Roulin et al. in that the blister pack is not sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed. This is a specific limitation in claims 16 and 18 which is not found in Roulin et al., wherefor Roulin et al. cannot support a rejection under 35 U.S.C. 102(b).

Also, the Examiner has rejected claim 18 under 35 U.S.C. 102(b) as being anticipated by Grabowski, U.S. Patent No. 5,954,204. Applicant respectfully traverses this rejection. The present invention as defined by the amended claims differs from the blister pack according to Grabowski in that applicant's invention can be kept in stock rolled up or concertinaed. This is a specific limitation in claim 16 which is not found in Grabowski et al., wherefor Grabowski et al. cannot support a rejection under 35 U.S.C. 102(b).

In addition, the Examiner has rejected claims 17 and 19 under 35 U.S.C. 103(a) as being unpatentable over Applezweig, in view of Roulin et al., and Troll et al., U.S. 3,311,229 or Gregory

et al., U.S. Patent No. 4,305,502. Also, the Examiner has rejected claims 17 and 19 under 35 U.S.C. 103(a) as being unpatentable over Roulin et al. in view of Troll et al. or Gregory et al.

Applicant respectfully traverses these rejections. It is recognized that Roulin et al. discloses that the lid material of the blister package can be made of aluminum foil which is a relatively thin material. In principle, the aluminum foil covering a receiving depression can be torn in either the inward or outward direction. However, in case of solid objects such as tablets being stored in conventional blister packages, as disclosed by Roulin et al., Troll et al., or Gregory et al., one would not be able to gain access to the tablets by applying finger pressure on the cover layer, because the base layer would provide resistance and back pressure. The cover layer would be pressed on the tablet, but would not tear. In addition, none of the references provides any hint or ideas which belies a blister pack as "push through" package. Since medical swabs are not solid objects, those with ordinary skill in the art would consider blister packs inappropriate as storage devices, because the swabs would give way to the pressure applied to the base layer and would not be retrievable that way. Although simple, the novel concept of opening a blister containing soft objects by applying finger pressure on the cover layer to tear the cover layer inward has neither been indicated nor made obvious to the skilled artisan by the cited references. Objection against inventiveness of this fundamentally new but very simple concept and the storage device utilizing this concept are believed to rely on an ex post analysis of the present invention. Thus, applicant respectfully requests that these rejections be withdrawn.


Finally, the Examiner rejects claims 20-21 under 35 U.S.C. 103(a) as being unpatentable over Applezweig and Roulin et al. further in view of Office Notice. The Examiner states that it is conventional to use paper on a compartmented package for recycling purpose and that it would have been obvious in view of Official Notice to use paper as the base layer for the package of Applezweig

or Roulin et al. Applicant respectfully traverses these rejections. Applicant's storage device, as well as the cited prior art, contain medicines and medical supplies for which special care must be taken. These storage devices are not traditional compartmented packages; because of the content of the packages, the base layer of Applezweig and Roulin et al. are plastics with special characteristics. These medicines and supplies are not recyclable and procedures for recycling would be anathema to applicant's invention as well as the cited prior art. The Examiner has not supplied Official Notice of sterilized paper with plastic for sterilized items as disclosed in applicant's invention. Thus, applicant respectfully requests that these rejections be withdrawn.

It is respectfully submitted that the application is now in condition for allowance, and such action is requested. No new matter has been added. The examiner is invited to telephone the undersigned if there are any matters which could be discussed to expedite the prosecution of the above-identified application.

Respectfully submitted,

By: _____


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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Title : STORAGE DEVICE FOR MEDICAL SWABS
Attorney File : RO0206US.CPA (#90568)

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ATTACHMENT TO AMENDMENT

MARKED UP CLAIMS SHOWING CHANGES RELATIVE TO THE ORIGINAL VERSION

CLAIMS:

16. (Five Times Amended) Storage device for medical swabs consisting essentially of an envelope for medical swabs which is formed by a flexible base layer and a flexible cover layer between which are provided adjacently disposed chambers whose size is determined by the number and size of swabs to be stored, wherein the chambers are formed by receiving depressions shaped to receive a medicinal swab in the flexible layer, the flexible base layer and the flexible cover layer are integrally joined in areas between the chambers, the envelope being sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed, the chambers being broken in response to the application of finger pressure on the flexible cover to tear the flexible cover layer inward to provide access to the medical swabs through the opening in the cover layer.

17. (Twice Amended) Storage device of claim 16 wherein the [chambers are formed by] receiving depressions in the flexible base layer[, said receiving depressions being] are convex with respect to the flexible cover layer and sealed by the flexible cover layer.

18. (Five Times Amended) Storage device for medical swabs comprising an envelope, said envelope

having a flexible base film and flexible covering film wherein said envelope has adjacent chambers wherein said chambers comprise two flexible layers which are integrally bonded with each other in the areas between the chambers, the chambers are formed by receiving depressions shaped to receive a medicinal swab in the flexible base film, the chambers opening in response to the exertion of finger pressure on the covering film to provide access to the medical swabs through the opening in the covering film, and the envelope being sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed.

22. (Amended) Storage device for medical swabs comprising an envelope, said envelope having a flexible base layer having receiving depressions for holding the medical swabs, and a flexible cover layer sealed to the base layer to form chambers with the respective depressions, said envelope being sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed, said cover layer opening in response to finger pressure on the cover layer to provide access to the chamber holding the medical swabs through the opening in the cover layer.